

# Mobile Broadband Market Inquiry Presentation to ICASA

27 October 2020

# Cell C Team

- Themba Phiri (Executive Head: Regulatory);
- Harrish Kasseepursad (Executive: Regulatory);
- Herman Pretorius (Executive: MVNO);
- Prof. Nicola Theron (FTI Consulting) Markets & Competition;
- Marius Claassen (Executive Head: Networks)

# Agenda

1. Introduction, legal framework and scope – Themba Phiri (*Executive Head: Regulatory*);
2. Markets Identified and Competitiveness and Retail markets Wholesale markets – Themba Phiri
3. Spectrum, Roaming and Site Access – Harrish Kasseepursad (*Executive: Regulatory*);
4. MVNO/ APN – Herman Pretorius (*Executive: MVNO*);
5. Specific Comments, Recommendations and Proposed Remedies – Prof. Nicola Theron (*FTI Consulting*);

## Legal Framework and Scope of the Mobile Broadband Market Inquiry

- Broadband Policy, SA Connect a policy blueprint issued by the Minister in terms of the ECA 2005, as amended;
- Electronic Communications Act –sec 67 (4) pro-competitive remedies on SMPs where market failure persist.
- ICASA proposes to develop facilities regulations to address its findings, i.e. impose pro-competitive conditions;
- Cell C made submissions to the regulator during this Inquiry also submitted written submissions to the Discussion Document of November 2019 and one-on-one meeting held 30 September 2020.
- Cell C generally agrees with the draft Discussions Document, in particular that there is a lack of competition; and that there is persistent market power of the dominant operators in the retail and wholesale layer of the market;
- Cell C also participated actively in the Competition Commission Data Services Inquiry and would urge ICASA to take note of the findings of the CC in that (completed) Inquiry;
- The CC found that infrastructure and profitability advantages of the incumbents weakens price-based competition “as lower prices from challenger networks do not necessarily get a pronounced subscriber switching response due to network quality differences” (DSMI Final Report, para 23.3).

# **Markets identified and competitiveness**

# Markets identified in the Draft discussion document

The Discussion Document identified 1 retail and 4 wholesale markets:

- a. **Retail mobile services market**, where voice, SMS and data services, have been aggregated for the analysis due to having potentially similar competitive dynamics. In terms of the geographic markets, the market for mobile services is defined as narrow as the local and metropolitan municipality level.
- b. **Wholesale spectrum market**. ICASA considers this to be a national market.
- c. **Wholesale site access market**. ICASA considers a market for site access that is at least as narrow as local and metropolitan municipalities
- d. **Wholesale roaming market**. ICASA considers a market for roaming services that has a geographic dimension at least as narrow as local and metropolitan municipal areas.
- e. **Wholesale MVNO and APN market**. No definitive markets are defined here.

**Cell C agrees with the product market definitions and the principle that remedies be introduced at the wholesale level;**

**Cell C disagrees with the geographic definitions (municipal/ regional) for the retail mobile and national roaming markets.**

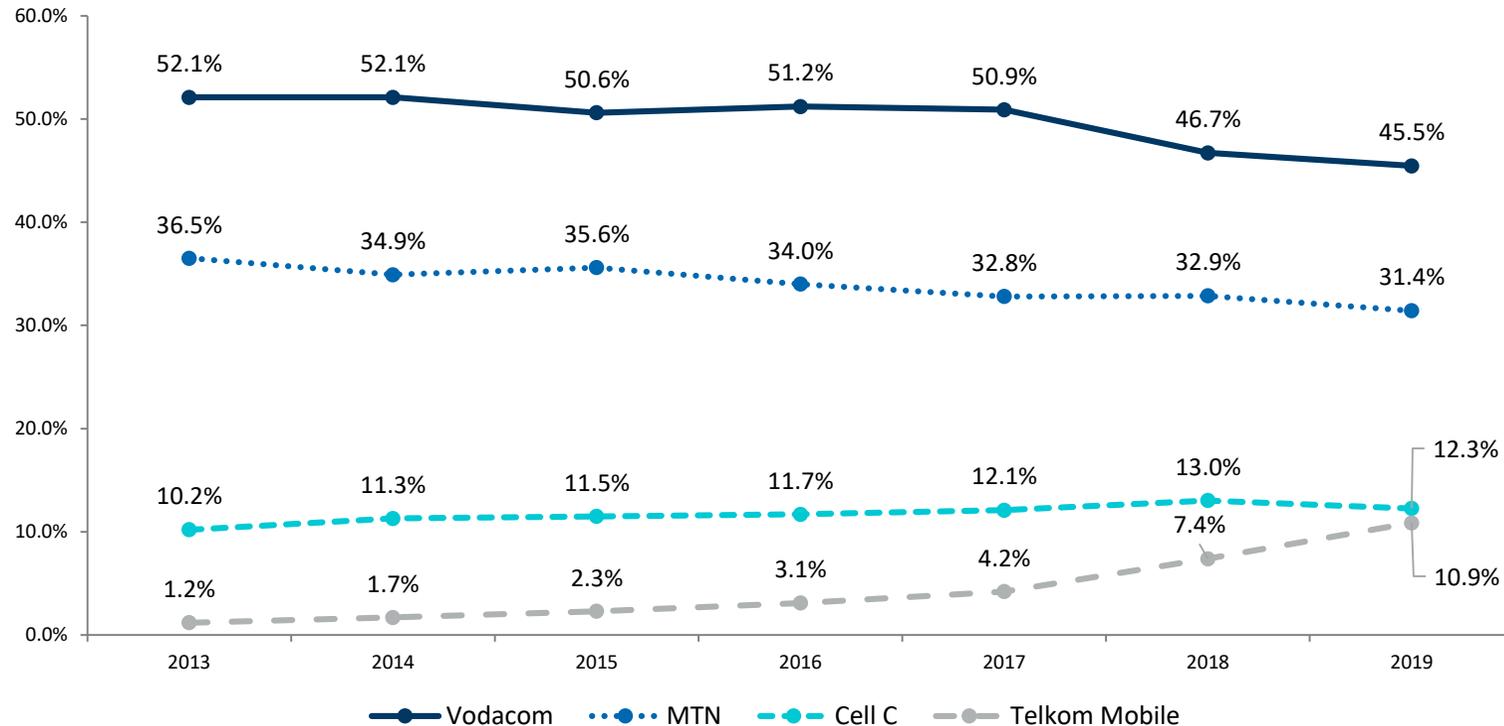
**It does not make sense to design remedies in such narrow geographic markets.**

**Retail market: Persistence of the dominance with high market shares of incumbents**

# RETAIL MOBILE MARKET- REVENUE MARKET SHARES

*The duopoly structure persists in retail markets:*

*MNO Service Revenue Market Shares (2019), Cell C estimates.*



Source: Vodacom, MTN and Telkom: Annual Financial Results; Cell C: Internal Estimates; Cell C presentation in the Data Services Market Inquiry, Public hearings dated 18 October 2018 (slide 11).

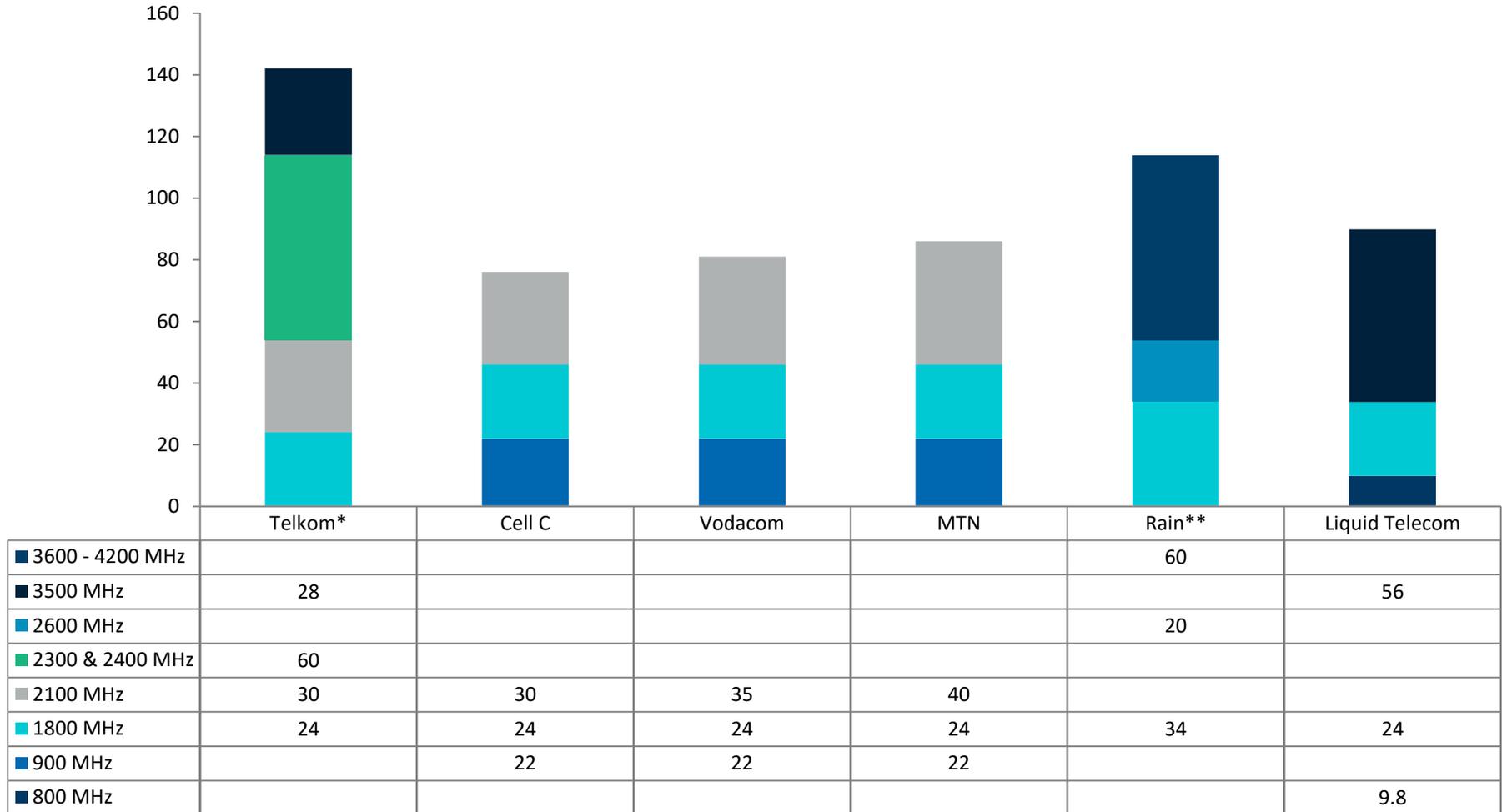
Note: For the years 2013 to 2017, we use the market share estimates from slide 11 in Cell C's presentation to the Data Services Market Inquiry. Vodacom and Telkom Mobile's financial year ends in March, while MTN and Cell C's financial years end in December. To allow for an accurate comparison, we lag Vodacom and Telkom Mobile's results by a quarter. For instance, for 2019, we use Vodacom and Telkom Mobile's FY2020 (dated 31 March) results, while using MTN and Cell C's FY2019 (dated 31 Dec) results. Data for 2013 to 2017 from Cell C presentation in the Data Services Market Inquiry.

# Wholesale Markets

- i. Spectrum
- ii. Site Access
- iii. Roaming
- iv. MVNO/ APN

# Spectrum- Access to spectrum is a vital input

Figure: Existing Spectrum Holdings (MHz)



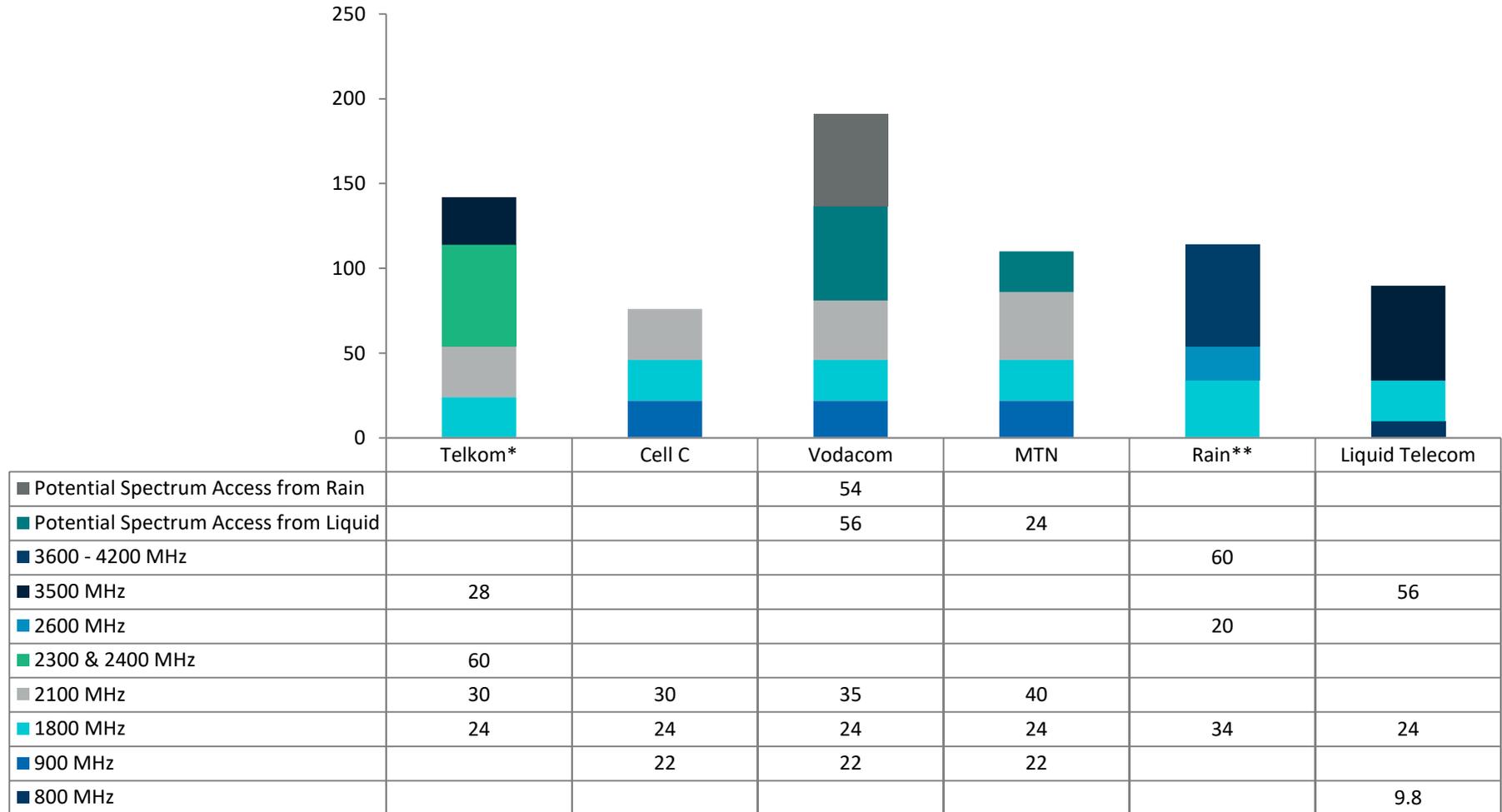
Source: Cell C Public Information and ICASA Plans

10 Notes: \* Assuming Telkom has 60 MHz in the 2,300 – 2,400 MHz band \*\* Rain claims to have spectrum in the 3,500 MHz band. This has not been confirmed.



# Spectrum – potential spectrum access following roaming agreements between Rain and VC; MTN and Liquid; and VC and Liquid

Figure: Spectrum Holdings (MHz) taking into account potential spectrum access



Source: Cell C estimates based on available public information

11 Notes: \* Assuming Telkom has 60 MHz in the 2,300 – 2,400 MHz band \*\* Rain claims to have spectrum in the 3,500 MHz band. This has not been confirmed.



# Site Access and National Roaming

- Site access market is sub-national and probably local.
  - Market is concentrated, Vodacom and MTN account for just under 70%.
  - Given Cell C's small presence, it cannot be considered dominant, even in specific local markets. Also, forward looking Cell C's presence will diminish considerably over time.
- The roaming market is not competitive, as only Vodacom and MTN can provide national roaming on a national basis

- Current mobile market share of MVNO retail subscribers is <1.5% as at Dec 2019 - offering unique customer solutions to specific niche segments
- Cell C enables the following MVNO models (i.e. selling wholesale network capacity) in the marketplace:
  - MVNE (an independent enabler between Cell C and the enabler's MVNOs);
  - Non-hosted MVNOs (a MVNO with its own Rating/Billing/CRM capabilities); and
  - Hosted MVNOs (a MVNO hosted on Cell C's Rating/Billing/CRM stack).
- Various reseller models exist in the marketplace, such as APN models and Branded Reseller models – offering limited brand, service and product differentiation as compared to the unique MVNO models

- In the future, the competitiveness and cost structures of Cell C and its MVNOs will directly depend on the services provided (i.e. 5G, etc.) and the input costs for voice and data usage charged by its National Roaming providers
- Given the likelihood that MNOs will be mandated to provide MVNO access as part of their future high-demand spectrum conditions, Cell C is concerned that incumbent operators will offer MVNO access at prices lower than roaming rates provided to roaming partners (such as Cell C).
- This will hamper competition in the MVNO market, which should be prevented.

# **Specific Comments on ICASA Discussion Document**

## Discussion points - Agreements

- Cell C agrees with the need for pro-competitive remedies to address the structure of the market.
- ICASA is correct in defining aggregated retail markets (including voice, sms and data);
- Mobile broadband is a separate market (from fixed);
- Cell C agrees with the distinction between MVNO/ APN markets and the roaming market;
- We agree that any issues in MVNO/APN markets will derive from upstream access and roaming and that no remedies are required in the MVNO market.
- Agrees mandating a roaming offer with guidelines;
- Agrees that dominant operators should publish details of site access;
- Cell C supports the WOAN and the impact it can have on stimulating competition.

# Discussion points - Disagreement

- Retail market – municipal/ regional markets. How will remedies work, as mobile pricing is done at a national level?
- Roaming markets – both Traditional Roaming models and new MOCN models are national in scope. Remedies at regional/ municipal level are not feasible;
- Re-drafting facilities leasing regulation, this can lead to unnecessary delays;

# **Cell C: Recommendations and Proposed Remedies**

# Recommended Remedies

(I/III)

- No remedies required at MVNO/ APN level - correct;
- Site access: redrafting facilities leasing regulations. What exactly will be the aim? Re-drafting the regulations can unduly delay the process.
  - We propose that the current regulations rather be amended (as necessary) and properly implemented;
  - Cell C would be willing to provide input into the detail of these proposed amendments;
  - Cell C would like to see the incumbents' ability to refuse access to sites on the basis of not being "technically and economically feasible" curbed;
  - Cell C supports the proposed publication of access offers (including site information) by dominant operators;
  - In addition to defining "essential facilities", ICASA should also publish regulations on essential facilities.
  - Accounting separation for both site access and roaming, is supported.

# Recommended Remedies

(II/III)

- Cell C does not agree with any roaming remedies at a sub-national level;
- We agree with the CC finding on roaming agreements:
  - *Vodacom and MTN must reach agreement with the Commission within six months to ensure that their national roaming agreements with other networks are priced, at a minimum, at wholesale rates which reflect a reasonable discount on their own effective retail rates as measured by the average revenue per GB, with provision for annual downward revisions to reflect reductions in their own effective retail rates over time. If no such agreement is reached, the Commission will proceed to prosecution in respect of excessive pricing and/or exclusionary conduct. Ultimately the minimum pricing standards for national roaming should be incorporated into the amendments to legislation with powers for ICASA to regulate roaming agreements.*
  - Competition Commission Data Market Inquiry Final Report, para 53.2.
- In addition to pricing, the roaming provider may not discriminate on quality or services offered (i.e. 5G).

**End**

# Cell C is an MNO not a super MVNO



MNO	VS	MVNO
<input checked="" type="checkbox"/> Cell C has the choice to change the network quality.	<b>Control over quality of service</b>	<input type="checkbox"/> Adopts same quality as Cell C.
<input checked="" type="checkbox"/> Cell C can choose to increase/decrease coverage footprint to deliver on ICASA regulations.	<b>Control over network coverage footprint</b>	<input type="checkbox"/> Adopts same footprint as Cell C.
<input checked="" type="checkbox"/> Cell C has control and use of own spectrum license.	<b>Spectrum license holder</b>	Not required
<input checked="" type="checkbox"/> Yes	<b>Spectrum license obligations</b>	None
<input checked="" type="checkbox"/> Cell C can independently direct network investment.	<b>Control over network investment</b>	<input type="checkbox"/> No

MNO	VS	MVNO
<input checked="" type="checkbox"/> Yes	<b>Control over core/backhaul transmission services</b>	<input type="checkbox"/> No
<input checked="" type="checkbox"/> Cell C pays termination fees if calling an MTN subscriber while roaming on MTN.	<b>Own voice Interconnection agreements to terminate on other operators</b>	<input type="checkbox"/> Does not pay interconnect termination fees if calling the host network's subscriber base
MNO	VS	MVNO
<input checked="" type="checkbox"/> Cell C operates on its own IMSI range.	<b>Own IMSI range</b>	<input type="checkbox"/> Uses Cell C's IMSI range.
<input checked="" type="checkbox"/> Yes	<b>Own number range</b>	<input type="checkbox"/> Dependent on Cell C to allocate numbers.
<input checked="" type="checkbox"/> Cell C decides on its product and pricing strategy independently.	<b>Control over own retail products and pricing</b>	<input checked="" type="checkbox"/> Decides on its product and pricing strategy independently.



## Cell C proposed list of Essential Facilities

- All RAN sites, i.e. sites with masts more than 15m in height and less than 15m in height; rooftops; mobile “cows” (cell on wheels); distributed antennae systems; or any other in-building solutions, microcells, etc.
- All RAN sites specifically used for transmission purposes, i.e. POPs (very high aggregation sites), repeaters (connecting two sites in rural areas), etc.
- All transmission fibre, i.e. international links (via cable stations and undersea cable systems, national backhaul links, cross-border international links (i.e. SA to Zimbabwe), access network links (connecting access sites), etc.
- All hosting facilities, i.e. data centres, etc.

## Cell C proposed list of Essential Facilities (continued)

- Any fibre optic cables on national long distance;
- Any backhaul circuits from cable landing stations;
- Any cable landing stations;
- Any satellite earth stations but not VSATs;
- Any undersea-based fibre optics cables;
- Any data centres (and racks and space within that centre);
- Any Telkom exchanges or exchange buildings;
- A meet-me room, carrier hotels;
- A multiplex;
- A satellite transponder;
- Any ducts and conduits for example and not limited to road reserves, in environmentally sensitive areas, or in heritage areas, where only one such facility might be allowed by road authorities;
- National roaming to allow access to such a service (which is itself provided over physical infrastructure or facilities) may be termed essential to provide equivalent technology coverage to all NR Providers and NR Receivers (i.e. 4G and 5G services);
- International gateways
- Masts.

## Other issues

Ducts and Poles should form part of the Inquiry;

While fixed/ mobile substitution is not the case in SA currently, 5G may change this and any remedies must be forward looking;

Any fixed/ mobile convergence in SA is however not likely to happen in the short-to medium-term and less likely for large portions of the population;

Price comparisons using 2017 data are not useful. Recent negotiated agreements between the CC and MNOs (including Cell C) would have changed this. ICASA should consider these price agreements and more recent data to inform any remedies;

**End**